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16 **UNITED STATES DISTRICT COURT**
17 **EASTERN DISTRICT OF WASHINGTON**

18 CITY OF SPOKANE, a municipal
corporation, located in the County of
Spokane, State of Washington,

19 Plaintiff,

20 v.

21 MONSANTO COMPANY, SOLUTIA
22 INC., and PHARMACIA
CORPORATION, and DOES 1 - 100,
23 Defendants.

Case No. 15-cv-00201-SMJ

Declaration of Adam E. Miller
Re: Defendants' Daubert Motion to
Exclude the Expert Testimony of J.
Michael Trapp

24 DECL. OF ADAM MILLER ISO DEFENDANTS'
DAUBERT MOTION TO EXCLUDE TRAPP

1 Adam E. Miller declares and states under penalty of perjury:

2 1. I am over the age of 18 and competent to be a witness herein. I am an
3 attorney for Defendants Pharmacia LLC (“Pharmacia” or “Old Monsanto”),
4 Monsanto Company (“New Monsanto”) and Solutia Inc. (“Solutia”) (collectively,
5 “Defendants”) in this matter. Except where indicated otherwise, I make this
6 declaration based on my own personal knowledge and the books and records of my
7 firm Kutak Rock LLP.

8 2. **Exhibit A** includes a true and correct copy of the Expert Report of J.
9 Michael Trapp and Joel E. Bowdan III, *City of Spokane v. Monsanto Company, et*
10 *al.* dated October 11, 2019 (“Trapp Rpt.”)

11 3. **Exhibit B** includes a true and correct copies of the Updated Damages
12 Model (PCB-SPOKANE-08180230 to PCB-SPOKANE-08180315) served as a
13 part of the 35th Production of Documents made by Plaintiffs on January 3, 2020.

14 4. **Exhibit C** includes true and correct copies of excerpts of the
15 deposition transcript of deposition testimony of Michael Trapp, taken on January
16 17, 2020, in the matter captioned *City of Spokane, et al. v. Monsanto Company, et*
17 *al.*, Case No. 2:15-cv-00201 (SMJ) in the U.S. District Court for the District of
18 Eastern District of Washington, at 11440 West Bernardo Court, Suite 265; San
19 Diego, California before Gail E. Kennamer,, CSR 4583. CCRR. Exhibit C includes
20 the following pages from the transcript: 15-18, 21, 23-24, 31, 52-56, 58-32, 68-69
21 and Court reporter certification.

1 5. **Exhibit D** includes a true and correct copy of the Expert Report of
2 David Dilks, Ph.D. in the Matter of City of Spokane v. Monsanto Co., et al. dated
3 October 10, 2019

4 6. **Exhibit E** includes a true and correct copy of Exhibit 2 from the
5 Deposition of David Dilks taken on January 23, 2020, in the matter captioned *City*
6 *of Spokane, et al. v. Monsanto Company, et al.*, Case No. 2:15-cv-00201 (SMJ) in
7 the U.S. District Court for the District of Eastern District of Washington, at 2723
8 South State Street, Suite 150, Ann Arbor, Michigan, before Anne E. Vosburgh,
9 CSR. 6804, RPR.

10 7. **Exhibit F** includes a true and correct copy of “Evaluation of the
11 Sources, Fate and Transport of Polychlorinated Biphenyls (PCBs) and Other
12 Substances in the Spokane River Watershed” Prepared for Monsanto Company,
13 Solutia, Inc., and Pharmacia LLC by Kurt Herman, M. Eng. P.G., dated November
14 14, 2019.

15 8. **Exhibit G** includes a true and correct copy of the Eastern Washington
16 Phase II Municipal Stormwater Permit dated August 1, 2012.

17 9. **Exhibit H** includes a true and correct copy of 40 CFR Parts 9, 122,
18 123 and 124 ‘National Pollutant Discharge Elimination System—Regulations for
19 Revision of the Water Pollution Control Program Addressing Storm Water
20 Discharges, Federal Register Vol. 64, No. 235 dated December 8, 1999.

CERTIFICATE OF SERVICE

I certify that on January 28, 2020, I caused the foregoing Declaration to be electronically filed with the clerk of the Court using the CM/ECF System which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice.

By: s/ Adam E. Miller

Adam E. Miller, MO Bar No. 40945

(*Pro Hac Vice*)

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